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23696 7590 12/14/2007 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121			EXAMINER FIGUEROA, MARISOL	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/728,035

Applicant(s)

ATTAR ET AL.

Examiner

Marisol Figueroa

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/26/2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, and 18-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-17 and 18-39 have been considered but are moot in view of the new ground(s) of rejection. See rejection below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, 3, 14, 21, 22, 33, and 39** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. (US 6,944,449 B1) in views of LEE (US 2004/0165529 A1) and LIN et al. (US 5,917,806).

Regarding claim 1, Gandhi discloses an apparatus for communications, comprising:

means for communicating, from a base station, with a plurality of communication devices, the communications placing a load on the base station (Figure 1 shows a base station 10 that communicates with a subscriber station 24 through its receiver, although only one subscriber station is shown, it is well known in the art that a base station can communicate with a plurality of subscriber stations and each place a load in the system);

means for monitoring a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring (i.e., monitoring) system performance indicators); and

means for detecting an overload as a result of one of the parameters crossing a threshold (col.2, lines 54 – col.3, lines 1-5; col.4, lines 47 – col.5, lines 1-10; col.9, lines 30-33; the base station establishes a blocking threshold upon the measured second performance indicator that represent an overload control threshold for preventing overloading of the wireless communication systems with active subscribers stations, therefore, when the first performance indicator exceeds the blocking threshold the wireless communication system block or reject calls because the system is overloaded).

But, Gandhi does not particularly disclose wherein the overload is detected when the first performance indicator (i.e., one of the parameters) crosses the threshold for an entire period of time for detecting overload condition; and means for implementing a plurality of control mechanisms to reduce the load on the base station, wherein the control mechanism used to reduce the load on the base station is selected based on the type and degree of the overload on the base station.

However, these features are well known in the art and Lee is evidence of the fact. Lee teaches an overload control method that includes judging whether an access network (i.e., base station) is overloaded and restricting an originating call and a termination call (i.e., plurality of control mechanisms) according to the determined class (i.e., type) during overload, in addition the overload control can be discriminately performed according to a degree of the overload so that the overload control method can effectively cope with the overload situation (see abstract; p.0033-0036). The overload control processes periodically checks whether the access network is overloaded, and when is indeed overloaded, a call (i.e., terminating call or originating call) is discriminately restricted according to a degree of overload, furthermore, the overload control

Art Unit: 2617

process can classify, for example, 24 classes (i.e., types) of overload according to a overload degree and restrict at least one of an originating call and a termination call processed on the basis of each class (p.0051-0052; Fig. 6). The control process determines an overload condition by for example measuring a processor occupancy rate (i.e., parameter) and if the measured processor occupancy rate is maintained for a prescribed time above a reference value (i.e., crossing the threshold for an entire period of time), the control process judges that an access network is in an overload state (p.0054; p.0056). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of detecting overload as a result of one of the parameters crossing the threshold for an entire period of time, as suggested by Lee, in order to assure that the system is in fact overloaded to avoid premature actions for relieving the overload condition when the system is not really overloaded.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include means for implementing a plurality of control mechanisms (i.e., reject terminating calls or originating calls) to reduce the load on the base station, wherein the control mechanism used to reduce the load on the base station is selected based on the type and degree of the overload on the base station, as suggested by Lee, in order to discriminately perform an overload control according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034 and p.0083).

But, the combination of Gandhi and Lee does not particularly disclose further comprising means for detecting an early time period, wherein the early time period occurs before the

Art Unit: 2617

overload is detected and wherein the plurality of control mechanisms are also implemented during the early time period.

However, Lin teaches a radio communication system with means for detecting an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before the overload is detected; and implementing a plurality of control mechanisms to reduce load during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period before overload is detected) and takes action to relieve the impending congestion by doing at least one of (a) increasing output resources and (b) decreasing traffic rates (i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include means for detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59).

Regarding claim 2, the combination of Gandhi, Lee, and Lin disclose the apparatus of claim 1, in addition Gandhi discloses wherein one of the parameters comprises receiver stability at the base station, and the overload is detected as a result of a receiver stability estimate exceeding the threshold (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29,

Art Unit: 2617

36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link and is compared with a blocking threshold that represents a control overload benchmark, therefore if the interference rise over the background noise exceeds the blocking threshold the system is judged be overloaded).

But, Gandhi does not particularly disclose wherein an overload condition is detected as a result of the first performance indicator (i.e., one of the parameters) crossing the threshold for a period of time. However, this feature is well known in the art and Lee is evidence of the fact. Lee teaches a overload control method in where the control process determines an overload condition by for example measuring a processor occupancy rate (i.e., parameter) and if the measured processor occupancy rate is maintained for a prescribed time above a reference value (i.e., exceeding the threshold for a period of time), the control process judges that an access network is in an overload state (p.0054; p.0056). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of detecting an overload condition when a parameter crosses a threshold for a period of time, as suggested by Lee, because this assures that the system is in fact overloaded to avoid premature actions for relieving the overload condition when the system is not really overloaded.

Regarding claim 3, the combination of Gandhi, Lee, and Lin disclose the apparatus of claim 2, in addition Gandhi discloses wherein the receiver stability estimate comprises a rise-over-thermal (col.3, lines 57-60).

Regarding claim 14, the combination of Gandhi, Lee, and Lin disclose the apparatus of claim 1, in addition Gandhi discloses wherein one of the parameters comprises receiver stability

Art Unit: 2617

at the base station (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29, 36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link and is compared with a blocking threshold that represents a control overload benchmark, therefore if the interference rise over the background noise exceeds the blocking threshold the system is judged to be overloaded).

Regarding claim 21, Gandhi discloses a base station configured to support communications with a plurality of communication devices, the communications placing a load on the base station, the base station comprising: a processor configured to monitor a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring (i.e., monitoring) system performance indicators), and to detect an overload as a result of one of the parameters crossing a threshold (col.2, lines 54 – col.3, lines 1-5; col.4, lines 47 – col.5, lines 1-10; col.9, lines 30-33; the base station establishes a blocking threshold upon the measured second performance indicator that represent an overload control threshold for preventing overloading of the wireless communication systems with active subscribers stations, therefore, when the first performance indicator exceeds the blocking threshold the wireless communication system rejects calls because the system is overloaded).

But, Gandhi does not particularly disclose wherein the first performance indicator (i.e., one of the parameters) crosses the threshold for an entire period of time for detecting an overload condition, and to reduce the load on the base station using a plurality of control mechanisms based on the type and degree of the load on the base station.

However, these features are well known in the art and Lee is evidence of the fact. Lee teaches an overload control method that includes judging whether an access network (i.e., base station) is overloaded and restricting an originating call and a termination call (i.e., control mechanisms) according to the determined class (i.e., type) during overload, in addition the overload control can be discriminately performed according to a degree of the overload so that the overload control method can effectively cope with the overload situation (see abstract; p.0033-0036). The overload control processes periodically checks whether the access network is overloaded, and when is indeed overloaded, a call (i.e., terminating call or originating call) is discriminately restricted according to a degree of overload, furthermore, the overload control process can classify, for example, 24 classes (i.e., types) of overload according to a overload degree and restrict at least one of an originating call and a termination call processed on the basis of each class (p.0051-0052; Fig. 6). The control process determines an overload condition by for example measuring a processor occupancy rate (i.e., parameter) and if the measured processor occupancy rate is maintained for a prescribed time above a reference value (i.e., crossing the threshold for an entire period of time), the control process judges that an access network is in an overload state (p.0054; p.0056). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of detecting overload as a result of one of the parameters crossing the threshold for an entire period of time, as suggested by Lee, in order to assure that the system is in fact overloaded to avoid premature actions for relieving the overload condition when the system is not really overloaded. Furthermore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of reducing the load on the base station using

Art Unit: 2617

a plurality of control mechanism based on the type and degree of the load on the base station, as suggested by Lee, in order to discriminately perform an overload control according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034; p.0083).

But, the combination of Gandhi and Lee does not particularly disclose wherein the processor is configured to detect an early time period, wherein the early time period occurs before the overload is detected and wherein the plurality of control mechanisms are also implemented during the early time period. *However*, Lin teaches a radio communication system with a processing system that is configured to detect an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before the overload is detected; and implementing a plurality of control mechanisms to reduce load during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period before overload is detected) and takes action to relieve the impending congestion by doing at least one of (a) increasing output resources and (b) decreasing traffic rates (i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include means for detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a

Art Unit: 2617

modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59).

Regarding claim 22, the combination of Gandhi, Lee, and Lin disclose the base station of claim 21, in addition Gandhi discloses further comprising a receiver (Figure 1; Receiver 14), and wherein one of the parameters is a function of receiver stability, the processor being further configured to detect the overload as a result of a receiver stability estimate exceeding the threshold (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29, 36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link and is compared with a blocking threshold that represents a control overload benchmark, therefore if the interference rise over the background noise exceeds the blocking threshold the system is judged to be overloaded).

But, Gandhi does not particularly disclose wherein an overload condition is detected as a result of the first performance indicator (i.e., one of the parameters) crossing the threshold for a period of time. *However*, this feature is well known in the art and Lee is evidence of the fact. Lee teaches a overload control method in where the control process determines an overload condition by for example measuring a processor occupancy rate (i.e., parameter) and if the measured processor occupancy rate is maintained for a prescribed time above a reference value (i.e., exceeding the threshold for a period of time), the control process judges that an access network is in an overload state (p.0054; p.0056). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of

Art Unit: 2617

detecting an overload condition when a parameter crosses a threshold for a period of time, as suggested by Lee, because this assures that the system is in fact overloaded to avoid premature actions for relieving the overload condition when the system is not really overloaded.

Regarding claim 33, the combination of Gandhi, Lee, and Lin disclose the base station of claim 21, in addition Gandhi discloses further comprising a receiver and transmitter, and wherein the processor is further configured to support communications with the communication devices, and wherein one of the parameters is a function of receiver stability (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29, 36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link and is compared with a blocking threshold that represents a control overload benchmark, therefore if the interference rise over the background noise exceeds the blocking threshold the system will be overloaded).

Regarding claim 39, Gandhi disclose a method for communications, comprising: communicating, from a base station, with a plurality of communication devices, the communications placing a load on the base station; monitoring a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring, i.e. monitoring, system performance indicators); and detecting an overload as a result of one of the parameters crossing a threshold (col.2, lines 54 – col.3, lines 1-5; col.4, lines 47 – col.5, lines 1-10; col.9, lines 30-33; the base station establishes a blocking threshold upon the measured second performance indicator that represent an overload control threshold for preventing overloading of the wireless communication systems with active

Art Unit: 2617

subscribers stations, therefore, when the first performance indicator exceeds the blocking threshold the wireless communication system block or reject calls because the system is overloaded).

But, Gandhi does not particularly disclose wherein an overload condition is detected as a result of the first performance indicator (i.e., one of the parameters) crossing the threshold for an entire period of time, and reducing the load on the base station using a plurality of control mechanisms based on the type and degree of the load on the base station.

However, these features are well known in the art and Lee is evidence of the fact. Lee teaches an overload control method that includes judging whether an access network (i.e., base station) is overloaded and restricting an originating call and a termination call (i.e., control mechanisms) according to the determined class (i.e., type) during overload, in addition the overload control can be discriminately performed according to a degree of the overload so that the overload control method can effectively cope with the overload situation (see abstract; p.0033-0036). The overload control processes periodically checks whether the access network is overloaded, and when is indeed overloaded, a call (i.e., terminating call or originating call) is discriminately restricted according to a degree of overload, furthermore, the overload control process can classify, for example, 24 classes (i.e., types) of overload according to a overload degree and restrict at least one of an originating call and a termination call processed on the basis of each class (p.0051-0052; Fig. 6). The control process determines an overload condition by for example measuring a processor occupancy rate (i.e., parameter) and if the measured processor occupancy rate is maintained for a prescribed time above a reference value (i.e., crossing the threshold for an entire period of time), the control process judges that an access network is in an

Art Unit: 2617

overload state (p.0054; p.0056). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of detecting overload as a result of one of the parameters crossing the threshold for an entire period of time, as suggested by Lee, in order to assure that the system is in fact overloaded to avoid premature actions for relieving the overload condition when the system is not really overloaded.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of reducing the load on the base station using a plurality of control mechanism based on the type and degree of the load on the base station, as suggested by Lee, in order to discriminately perform an overload control according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034; p.0083).

But, the combination of Gandhi and Lee does not particularly disclose the step of detecting an early time period, wherein the early time period occurs before the overload is detected, and wherein the plurality of control mechanisms are also implemented during the early time period.

However, Lin teaches a radio communication system that detects an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before the overload is detected; and implements a plurality of control mechanisms to reduce load during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period

Art Unit: 2617

before overload is detected) and takes action to relieve the impending congestion by doing at least one of (a) increasing output resources and (b) decreasing traffic rates (i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include the step of detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59).

4. **Claim 10** is rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., and PADOVANI et al. (US 6,442,398 B1).

Regarding claim 10, the combination of Gandhi, Lee, and Lin disclose the apparatus of claim 1, but the combination does not particularly disclose wherein one of the parameters comprises a number of the communication devices in communication with the base station.

However, Padovani teaches that a simple means for determining reverse link loading is to simply count the number of active users in the base station (col.4, lines 32-34). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to monitor a parameter comprising of monitoring a number of the communication devices in communication with the base station, as suggested by Padovani, because is conventional and well known in the art method for determining a reverse link loading and simple to implement.

Art Unit: 2617

5. **Claims 4, 5, 24, and 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., and LEE et al. (US 2003/0125068 A1), hereinafter Lee '068.

Regarding claim 4, the combination of Gandhi, Lee, and Lin disclose the apparatus of claim 3, but the combination does not particularly disclose further comprising means for generating power control commands for each of the communication devices, and adjusting the threshold as a function of the power control commands. However, Lee '068 discloses a method of performing power control in a mobile communication system, wherein the base station generates power control commands based on a power control threshold value for a first terminal and adjusted according to a communication environment (p.0012-0020; p.0029-0037).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to incorporate means for generating power control commands for each of the communication devices and adjust a threshold as a function of the power control commands, as suggested by Lee '068, in order to reduce signal interference in the system.

Regarding claim 5, the combination of Gandhi, Lee, Lin, and Lee '068 disclose the apparatus of claim 4, in addition Lee '068 discloses further comprising means for monitoring the communications from each of the communication devices to detect errors, and wherein the adjustment of the threshold is further a function of the detected errors (p.0038-0039).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to incorporate means for monitoring the communication from the communication devices to detect errors and adjust the threshold as a

Art Unit: 2617

function of the detected errors, as suggested by Lee '068, in order to decrease for example the frame errors of voice data.

Regarding claim 24, the combination of Gandhi, Lee, and Lin disclose the base station of claim 22, but the combination does not particularly disclose wherein the processor is further configured to generate power control commands for each of the communication devices, and adjust the threshold as a function of the power control commands. However, Lee '068 discloses a method of performing power control in a mobile communication system, wherein the base station generates power control commands based on a power control threshold value for a first terminal and adjusted according to a communication environment (p.0012-0020; p.0029-0037).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to configure the processor to generate power control commands and adjust a threshold as a function of the power control command, as suggested by Lee '068, in order to reduce signal interference in the system and avoid degradation of the signal quality.

Regarding claim 25, the combination of Gandhi, Lee, Lin, and Lee '068 disclose the base station of claim 24, in addition Lee '068 discloses wherein the processor is further configured to monitor communications from the communication devices to detect errors, and wherein the adjustment of the threshold by the processor is further a function of the detected errors (p.0038-0039). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of monitoring the communication from the communication devices to detect errors and adjust the threshold as a

function of the detected errors, as suggested by Lee '068, in order to decrease for example the frame errors of voice data.

6. **Claims 7-9, and 26-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., and LAAKSO (US 2003/0003921 A1).

Regarding claim 7, the combination of Gandhi, Lee, and Lin disclose the apparatus of claim 1, but the combination does not particularly disclose wherein one of the parameters comprises transmission power requirements for a base station transmitter, the transmission power requirements being derived from feedback from the communication devices.

However, Laakso teaches a method for traffic load control in a telecommunication network comprising the steps of setting a first reference load value for the load of a respective cell (abstract, lines 1-11); the method measures the parameter PrxTotal which is the total received power in the uplink measured on cell basis (Page 3, Table), and establishes an overload condition if the PrxTotal exceeds the overload threshold PrxThreshold (p.0071; p.0074).

Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to incorporate the feature of monitoring transmission power requirements for a base station transmitter, as suggested by Laakso, because is a parameter well known in the art used to estimate and control the state of congestion of a communication system due to wireless communication devices.

Regarding claim 8, the combination of Gandhi, Lee, Lin, and Laakso disclose the apparatus of claim 7, in addition Laakso discloses wherein the transmission power requirements comprises transmission power requirements for a plurality of reverse power control (RPC) channels, each of the RPC channels being assigned to one of the communication devices (Page 3,

Art Unit: 2617

Table; the method measures the PrxTotal which is the total received power in the uplink, i.e. reverse channels). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of wherein the transmission power requirements comprises transmission power requirements for a plurality of reverse power control channels, as suggested by Laakso, because it is conventional and well known in the art that communication systems establishes reception power requirements to ensure the stability of the network.

Regarding claim 9, the combination of Gandhi, Lee, Lin, and Laakso disclose the apparatus of claim 7, in addition Laakso discloses wherein the overload is detected as a result of the transmission power requirements exceeding a maximum transmission power capability of the base station transmitter (p.0123, lines 1-9). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of detecting an overload condition as a result of the transmission power requirements exceeding a maximum transmission power capability, as suggested by Laakso, because it is well known in the art that when the transmission power of a base station is determined to be too much (i.e., exceeding a maximum transmission capability), the system becomes unstable, indicating an overload condition.

Regarding claim 26, the combination of Gandhi, Lee, and Lin disclose the base station of claim 21, in addition Gandhi discloses further comprising a transmitter (Figure 1; Transmitter 12), but Gandhi does not particularly disclose wherein one of the monitored parameters is a function of the transmission power requirements for the transmitter, the processor being further

Art Unit: 2617

configured to derive transmission power requirements from feedback from the communication devices.

However, Laakso teaches a method for traffic load control in a telecommunication network comprising the steps of setting a first reference load value for the load of a respective cell (abstract, lines 1-11); the method measures the parameter PrxTotal which is the total received power in the uplink measured on cell basis (Page 3, Table), and establishes an overload condition if the PrxTotal exceeds the overload threshold PrxThreshold (p.0071; p.0074). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of monitoring transmission power requirements for a base station transmitter, as suggested by Laakso, because is a parameter conventional and well known in the art, used to estimate and control the state of congestion of a communication system due to wireless communication devices.

Regarding claim 27, the combination of Gandhi, Lee, Lin, and Laakso disclose the base station of claim 26, in addition Laakso discloses wherein the transmission power requirements comprise transmission power requirements for a plurality of reverse power control (RPC) channels, each of the RPC channels being assigned to one of the communication devices (Page 3, Table; the method measures the PrxTotal which is the total received power in the uplink, i.e. reverse channels). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of wherein the transmission power requirements comprises transmission power requirements for a plurality of reverse power control channels, as suggested by Laakso, because it is well known in the art that

Art Unit: 2617

communication systems establishes reception power requirements to ensure the stability of the network.

Regarding claim 28, the combination of Gandhi, Lee, Lin, and Laakso disclose the base station of claim 26, in addition Laakso discloses wherein the overload is detected as a result of the transmission power requirements exceeding a maximum transmission power capability of the base station transmitter (p.0123, lines 1-9). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the feature of detecting an overload condition as a result of the transmission power requirements exceeding a maximum transmission power capability, as suggested by Laakson, because when the transmission power is determined to be too much (i.e., exceeding a maximum transmission capability), the system becomes unstable, indicating an overload condition.

7. **Claims 12 and 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., and VOLFTSUN et al. (US 6,707,792 B1).

Regarding claim 12, the combination of Gandhi, Lee, and Lin disclose the apparatus of claim 1, but the combination fails to particularly disclose comprising means for detecting a second degree of overload as a result of said one of the parameters crossing a second threshold.

However, Volftsun teaches a method and apparatus for reducing overload conditions of a node of a communication system, that establishes pairs of overload thresholds values and each overload threshold correspond to the current saturation level (abstract). The pair of thresholds corresponds to an upper and a lower overload level values and correspond to saturation conditions in the node (col.2, line 34 – col. 3, lines 1-7). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to

Art Unit: 2617

incorporate means for detecting a second degree of overload level as a result of one of the parameters crossing a second threshold, as suggested by Volftsun, because a second threshold may correspond to an upper overload threshold value that indicates a saturation condition in the base station which is an indication of overload that is higher than the overload resulting from crossing a lower overload threshold value.

Regarding claim 30, the combination of Gandhi, Lee, and Lin disclose the base station of claim 21, but the combination fails to particularly disclose wherein the processor is further configured to detect a second degree overload as a result of the one of the parameters crossing a second threshold.

However, Volftsun teaches a method and apparatus for reducing overload conditions of a node of a communication system, it establishes pairs of overload thresholds values and each overload threshold correspond to the current saturation level (abstract). The pair of thresholds corresponds to an upper and a lower overload level values and correspond to saturation conditions in the node (col.2, line 34 – col. 3, lines 1-7). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of detecting a second degree of overload level as a result of one of the parameters crossing a second threshold, as suggested by Volftsun, because a second threshold may correspond to an upper overload threshold value that indicates a saturation condition in the base station which is an indication of overload that is higher than the overload resulting from crossing a lower overload threshold value.

8. **Claims 13 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., and DJURIC (US 6,785,546 B1).

Regarding claim 13, the combination of Gandhi, Lee, and Lin disclose the apparatus of claim 1, but the combination fails to particularly disclose wherein one of the parameters comprises loading on processing resources used for communication with the communication devices.

However, Djuric teaches a method and apparatus that monitors the traffic (i.e. load) in an application processor used of a wireless communication network in order to maintain call processing related traffic below a predefined threshold to avoid overload (abstract; col.1, line 50-col.2, lines 1-9). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to monitor the parameter comprising loading on processing resources used for communication, as suggested by Djuric, because monitoring the processor traffic provides a measure for maintaining the traffic below a predefined threshold to improve the overall performance of the base station processor.

Regarding claim 31, the combination of Gandhi, Lee, and Lin disclose the base station of claim 21, in addition Gandhi discloses wherein the processor is further configured to support communications with the communication devices, but the combination fails to particularly disclose wherein one of the parameters comprises loading on processing resources used for communication with the communication devices.

However, Djuric teaches a method and apparatus that monitors the traffic (i.e. load) in an application processor used of a wireless communication network in order to maintain call processing related traffic below a predefined threshold to avoid overload (abstract; col.1, line 50-col.2, lines 1-9). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to monitor the parameter comprising

Art Unit: 2617

loading on processing resources used for communication, as suggested by Djuric, because monitoring the processor traffic provides a measure for maintaining the traffic below a predefined threshold to improve the overall performance of the base station processor.

9. **Claims 15 and 35** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., LAAKSO, and DJURIC.

Regarding claim 15, the combination of Gandhi, Lee, and Lin disclose the apparatus of claim 1, in addition Gandhi discloses wherein one of the parameters comprises receiver stability at the base station (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29, 36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link and is compared with a blocking threshold that represents a control overload benchmark, therefore, when the interference rise over the background noise exceeds the blocking threshold the system is judged to be overloaded).

But, the combination fails to particularly disclose wherein a second one of the parameters measured at the base station comprises base station transmission power requirements derived from feedback from the communication devices.

However, Laakso teaches a method for traffic load control in a telecommunication network comprising the steps of setting a first reference load value for the load of a respective cell (abstract, lines 1-11); the method measures the parameter PrxTotal which is the total received power in the uplink measured on cell basis (Page 3, Table), and establishes an overload condition if the PrxTotal exceeds the overload threshold PrxThreshold (p.0071; p.0074). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the

Art Unit: 2617

invention, to modify the combination to include the features of monitoring a second parameter comprising transmission power requirements for a base station transmitter, as suggested by Laakso, because is a parameter conventional and well known in the art, used to estimate and control the state of congestion of a communication system due to wireless communication devices.

But, the combination of Gandhi, Lee, Lin, and Laakso fails to particularly disclose monitoring a third parameter that comprises loading on processing resources used for communication with the communication devices.

However, Djuric teaches a method and apparatus that monitors the traffic (i.e. load) in an application processor used of a wireless communication network in order to maintain call processing related traffic below a predefined threshold to avoid overload (abstract; col.1, line 50-col.2, lines 1-9). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to monitor a third parameter that comprise loading on processing resources used for communication, as suggested by Djuric, because monitoring the processor traffic provides a measure for maintaining the traffic below a predefined threshold to improve the overall performance of the base station processor.

Regarding claim 35, the combination of Gandhi, Lee, and Lin disclose the base station of claim 21, in addition Gandhi discloses further comprising a receiver and transmitter (Figure 1), and wherein the processor is further configured to support communications with the communication devices, and wherein one of the parameters is a function of receiver stability (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29, 36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise

Art Unit: 2617

over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link and is compared with a blocking threshold that represents a control overload benchmark, therefore if the interference rise over the background noise exceeds the blocking threshold the system will be overloaded).

But, the combination fails to particularly disclose wherein the second one of the parameters is a function of transmission power requirements for the transmitter.

However, Laakso teaches a method for traffic load control in a telecommunication network comprising the steps of setting a first reference load value for the load of a respective cell (abstract, lines 1-11); the method measures the parameter PrxTotal which is the total received power in the uplink measured on cell basis (Page 3, Table), and establishes an overload condition if the PrxTotal exceeds the overload threshold PrxThreshold (p.0071; p.0074). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of monitoring a second parameter comprising transmission power requirements for a base station transmitter, as suggested by Laakso, because is a parameter conventional and well known in the art, used to estimate and control the state of congestion of a communication system due to wireless communication devices.

But, the combination of Gandhi, Lee, Lin, and Laakso fails to particularly disclose monitoring a third parameter that comprises loading on processing resources used for communication with the communication devices. However, Djuric teaches a method and apparatus that monitors the traffic (i.e. load) in an application processor used of a wireless communication network in order to maintain call processing related traffic below a predefined

Art Unit: 2617

threshold to avoid overload (abstract; col.1, line 50-col.2, lines 1-9). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of monitoring a third parameter comprising loading on processing resources used for communication, as suggested by Djuric, because monitoring the processor traffic provides a measure for maintaining the traffic below a predefined threshold to improve the overall performance of the base station processor.

10. **Claims 16 and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., LAAKSO, DJURIC, and PADOVANI.

Regarding claim 16, the combination of Gandhi, Lee, Lin, Laakso, and Djuric disclose apparatus of claim 15, but the combination fails to particularly disclose wherein a fourth one of the parameters comprises a number of the communication devices in communication with the base station.

However, Padovani teaches that a simple means for determining reverse link loading is to simply count the number of active users in the base station (col.4, lines 32-34). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of monitoring a fourth parameter comprising a number of the communication devices in communication with the base station, as suggested by Padovani, because is conventional and well known in the art method for determining a reverse link loading and simple to implement.

Regarding claim 36, the combination of Gandhi, Lee, Lin, Laakso, and Djuric disclose the base station of claim 35, but the combination fails to particularly disclose wherein a fourth

Art Unit: 2617

one of the parameters is a function of the number of communication devices in communication with the base station.

However, Padovani teaches that a simple means for determining reverse link loading is to simply count the number of active users in the base station (col.4, lines 32-34). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of monitoring a fourth parameter comprising a number of the communication devices in communication with the base station, as suggested by Padovani, because is conventional and well known in the art method for determining a reverse link loading and simple to implement.

11. **Claim 18** is rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., and BENDER et al. (US 2002/0155852 A1).

Regarding claim 18, the combination of Gandhi, Lee, and Lin disclose the apparatus as in claim 1, but the combination fails to particularly disclose wherein one of the means for implementing a control mechanism comprises: means for determining idle users; and means for bumping service to idle users.

However, this control mechanism is well known in the art and Bender is evidence of the fact. Bender teaches a method for supervising connections with wireless access terminals and releasing the access terminals when they become idle for a predetermined period of time (p.0036, lines 1-11). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to incorporate a control mechanism comprising means for determining idle users and means for bumping service to idle users, as suggested by Bender, in order to free and maximize the RF resources for use by other access terminals.

Art Unit: 2617

12. **Claims 6 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., and GEHI et al. (US 6,134,216).

Regarding claim 6, Gandhi discloses an apparatus for communications, comprising:

means for communicating, from a base station, with a plurality of communication devices, the communications placing a load on the base station (Figure 1 shows a base station 10 that communicates with a subscriber station 24 through its receiver, although only one subscriber station is shown it is known that a base station can communicate with a plurality of subscriber stations and each place a load in the system);

means for monitoring a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring, i.e. monitoring, system performance indicators); wherein one of the parameters comprises receiver stability at the base station, and the overload is detected as a result of a receiver stability estimate exceeding the threshold (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29, 36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link and is compared with a blocking threshold that represents a control overload benchmark, therefore, when the interference rise over the background noise exceeds the blocking threshold the system is judged to be overloaded).

But, Gandhi fails to particularly disclose wherein the overload is detected as a result of the first performance indicator (i.e., one of the parameters) crossing the threshold for a period of time; and means for implementing a plurality of control mechanisms to reduce the load on the

base station, wherein the control mechanism used to reduce the load on the base station is selected based on the type and degree of the load on the base station.

However, these features are well known in the art and Lee is evidence of the fact. Lee teaches an overload control method that includes judging whether an access network (i.e., base station) is overloaded and restricting an originating call and a termination call (i.e., control mechanisms) according to the determined class (i.e., type) during overload, in addition the overload control can be discriminately performed according to a degree of the overload so that the overload control method can effectively cope with the overload situation (see abstract; p.0033-0036). The overload control processes periodically checks whether the access network is overloaded, and when is indeed overloaded, a call (i.e., terminating call or originating call) is discriminately restricted according to a degree of overload, furthermore, the overload control process can classify, for example, 24 classes (i.e., types) of overload according to a overload degree and restrict at least one of an originating call and a termination call processed on the basis of each class (p.0051-0052; Fig. 6). The control process determines an overload condition by for example measuring a processor occupancy rate (i.e., parameter) and if the measured processor occupancy rate is maintained for a prescribed time above a reference value (i.e., crossing the threshold for an entire period of time), the control process judges that an access network is in an overload state (p.0054; p.0056). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of detecting overload as a result of one of the parameters crossing the threshold for a period of time, as suggested by Lee, in order to assure that the system is in fact overloaded to avoid premature actions for relieving the overload condition when the system is not really overloaded.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of reducing the load on the base station using a plurality of control mechanism based on the type and degree of the load on the base station, as suggested by Lee, in order to discriminately perform an overload control according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034; p.0083)

But, the combination of Gandhi and Lee fails to particularly disclose means for detecting a second degree overload as a result of the parameter exceeding the threshold for a second period of time longer than the first period of time; and means for detecting an early time period, wherein the early time period occurs before the overload is detected, and wherein the plurality of control mechanisms are also implemented during the early time period.

However, Gehi teaches means for detecting a second degree overload as a result of the parameter exceeding the threshold for a second period of time longer than the first period of time (abstract; col. 2, lines 5-36; Gehi teaches a method of responding to overload in a real time system such as a telecommunication system, in where overload is measured through the use of a control parameter and the overload indication is reduced to one of a plurality of levels (i.e., degrees), the level corresponding to a longer term (i.e., second degree) more serious overload are based on control measurements over a longer period of time than the less serious short term (i.e., first degree) overload, and therefore the actions taken for relieving overloading are distinguished by the level of overload). Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include

Art Unit: 2617

means for detecting a second degree overload as a result of a parameter (i.e., receiver stability) exceeding a threshold for a period of time longer than the first period, as suggested by Gehi, because this distinguishes the severity of the overload condition and the control actions to be performed according to the level of overload in the system.

And, Lin teaches a radio communication system with means for detecting an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before the overload is detected; and implementing a plurality of control mechanisms to reduce load during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period before overload is detected) and takes action to relieve the impending congestion by doing at least one of (a) increasing output resources and (b) decreasing traffic rates (i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include means for detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59).

Regarding claim 23, Gandhi discloses a base station configured to support communications with a plurality of communication devices, the communications placing a load

Art Unit: 2617

on the base station, the base station comprising: a receiver (Figure 1; Receiver 14); a processor configured to monitor a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring, i.e. monitoring, system performance indicators), wherein one of the parameters is a function of receiver stability, the processor being further configured to detect the overload as a result of a receiver stability estimate exceeding the threshold (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29, 36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link and is compared with a blocking threshold that represents a control overload benchmark, therefore, when the interference rise over the background noise exceeds the blocking threshold the system is judged to be overloaded).

But, Gandhi fails to particularly disclose wherein the overload is detected as a result of the first performance indicator (i.e., one of the parameters) crossing the threshold for a period of time; and wherein the processor is further configured to reduce the load on the base station using a plurality of control mechanisms based on the type and degree of the load on the base station.

However, these features are well known in the art and Lee is evidence of the fact. Lee teaches an overload control method that includes judging whether an access network (i.e., base station) is overloaded and restricting an originating call and a termination call (i.e., control mechanisms) according to the determined class (i.e., type) during overload, in addition the overload control can be discriminately performed according to a degree of the overload so that the overload control method can effectively cope with the overload situation (see abstract;

p.0033-0036). The overload control processes periodically checks whether the access network is overloaded, and when is indeed overloaded, a call (i.e., terminating call or originating call) is discriminately restricted according to a degree of overload, furthermore, the overload control process can classify, for example, 24 classes (i.e., types) of overload according to a overload degree and restrict at least one of an originating call and a termination call processed on the basis of each class (p.0051-0052; Fig. 6). The control process determines an overload condition by for example measuring a processor occupancy rate (i.e., parameter) and if the measured processor occupancy rate is maintained for a prescribed time above a reference value (i.e., crossing the threshold for an entire period of time), the control process judges that an access network is in an overload state (p.0054; p.0056). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of detecting overload as a result of one of the parameters crossing the threshold for a period of time, as suggested by Lee, in order to assure that the system is in fact overloaded to avoid premature actions for relieving the overload condition when the system is not really overloaded.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include means for reducing the load on the base station using a plurality of control mechanisms based on the type and degree of the load on the base station, as suggested by Lee, in order to discriminately perform an overload control mechanism according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034; p.0083).

Art Unit: 2617

But, the combination of Gandhi and Lee does not particularly disclose wherein the processor is further configured to detect a second degree overload as a result of the receiver capacity exceeding the threshold for a second period of time longer than the first period of time; and wherein the processor is further configured to detect an early time period, wherein the early time period occurs before the overload is detected, and wherein the plurality of control mechanisms are also implemented during the early time period.

However, Gehi teaches a communication system that is configured to detect a second degree overload as a result of a measured parameter exceeding the threshold for a second time period of time longer than the first period of time (abstract; col. 2, lines 5-36; Gehi teaches a method of responding to overload in a telecommunication system, in where overload is measured through the use of a control parameter and the overload indication is reduced to one of a plurality of levels (i.e., degrees), the level corresponding to a longer term (i.e., second degree) more serious overload are based on control measurements over a longer period of time than the less serious short term (i.e., first degree) overload, and therefore the actions taken for relieving overloading are distinguished by the level of overload). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify Gandhi to include the features of detecting a second degree overload as a result of a parameter (i.e., receiver stability) exceeding a threshold for a period of time longer than the first period, as suggested by Gehi, because this distinguishes the severity of the overload condition and the control actions to be performed according to the level of overload in the system.

And, Lin teaches a radio communication system that is configured to detect an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before

Art Unit: 2617

the overload is detected; and implementing a plurality of control mechanisms to reduce load during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period before overload is detected) and takes action to relieve the impending congestion by doing at least one of (a) increasing output resources and (b) decreasing traffic rates (i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include the features of detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59).

13. **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., BENDER (US 2002/0155852 A1), and KIM et al. (US 6,456,850 B1).

Regarding claim 19, Gandhi discloses an apparatus for communications, comprising:

means for communicating, from a base station, with a plurality of communication devices, the communications placing a load on the base station (Figure 1 shows a base station 10 that communicates with a subscriber station 24 through its receiver, although only one subscriber

station is shown it is known that a base station can communicate with a plurality of subscriber stations and each place a load in the system);

means for monitoring a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring, i.e. monitoring, system performance indicators); and

means for detecting an overload as a result of one of the parameters crossing a threshold (col.2, lines 54 – col.3, lines 1-5; col.4, lines 47 – col.5, lines 1-10; col.9, lines 30-33; the base station establishes a blocking threshold upon the measured second performance indicator that represent an overload control threshold for preventing overloading of the wireless communication systems with active subscribers stations, therefore, when the first performance indicator exceeds the blocking threshold the wireless communication system block or reject calls because the system is overloaded);

and means for implementing a control mechanism to reduce the overload (col.2, lines 54 – col.3, lines 1-5; col.4, lines 47 – col.5, lines 1-10; col.9, lines 30-33; when the first performance indicator exceeds the blocking threshold the wireless communication system rejects calls to prevent coverage and/or performance degradation due to overload conditions).

But, Gandhi does not particularly disclose means for implementing a plurality of control mechanisms to reduce the load on the base station, wherein the control mechanism used to reduce the load on the base station is selected based on the type and degree of the load on the base station.

However, this feature is well known in the art and Lee is evidence of the fact. Lee teaches an overload control method that includes judging whether an access network (i.e., base station) is

overloaded and restricting an originating call and a termination call (i.e., control mechanisms) according to the determined class (i.e., type) during overload, in addition the overload control can be discriminately performed according to a degree of the overload so that the overload control method can effectively cope with the overload situation (see abstract; p.0033-0036). The overload control processes periodically checks whether the access network is overloaded, and when is indeed overloaded, a call (i.e., terminating call or originating call) is discriminately restricted according to a degree of overload, furthermore, the overload control process can classify, for example, 24 classes (i.e., types) of overload according to a overload degree and restrict at least one of an originating call and a termination call processed on the basis of each class (p.0051-0052; Fig. 6). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include means for reducing the load on the base station using a plurality of control mechanisms based on the type and degree of the load on the base station, as suggested by Lee, in order to discriminately perform an overload control according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034; p.0083).

But, the combination of Gandhi and Lee does not particularly disclose wherein the first control mechanism comprises: means for determining idle users and bumping service to idle users; and means for determining high data users and bumping service to high data users.

However, these control mechanisms are well known in the art and Bender and Kim are evidence of the fact. Bender teaches a method for supervising connections with wireless access terminals and releasing the access terminals when they become idle for a predetermined period

Art Unit: 2617

of time (p.0036, lines 1-11); and Kim teaches a method for preventing overload conditions in a communication system that performs a call load analysis to each of the individual subscribers, and the individuals subscribers whose contributions to the average call load are deemed significant (i.e., high data) are identified and removed from the system (abstract; col.8, lines 13-34). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include control mechanisms comprising means for determining idle and high data users and means for bumping service to idle and high data users, as suggested by Bender and Kim, because bumping idle users free and maximize the RF resources for use by other access terminals, and bumping high data users causes a communication system to no longer be in an overload condition.

But, the combination of Gandhi, Lee, Bender, and Kim does not particularly disclose further comprising means for detecting an early time period, wherein the early time period occurs before the overload is detected; and wherein the plurality of control mechanisms are also implemented during the early time period.

However, Lin teaches a radio communication system with means for detecting an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before the overload is detected; and implementing a plurality of control mechanisms to reduce load during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period before overload is detected) and takes action to relieve the impending congestion by doing at least one of (a) increasing output resources and (b) decreasing traffic rates

Art Unit: 2617

(i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi, Lee, Bender, and Kim to further include means for detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59).

14. **Claim 20** is rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, BENDER, KIM et al., LIN et al., and KATOH et al. (US 5,949,757).

Regarding claim 20, the combination of Gandhi, Lee, Bender, Kim, and Lin disclose the apparatus as in claim 19, but the combination fails to particularly disclose means for determining a first group of users having transferred a first amount of data; and means for bumping service to the first group of users.

However, Katoh teaches a method for monitoring packet flow in a communication system, the system includes a connection group monitor means that monitors the flows of packets transferred over the connection group and checks whether the flow of packets (i.e., amount of data) exceeds a threshold and if the flow exceeds the threshold the monitor means discard the packets (i.e., bump service to the group) so congestion does not occur (col.2, lines 24-58). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination to include the control mechanism comprising determining a first group having transferred a first amount of data and bumping service to the

Art Unit: 2617

first group, as suggested by Katoh, in order to regulate the amount of data transmitted by a group of users so congestion does not occur.

15. **Claims 11 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE et al., VOLFTSUN et al., and LIN et al.

Regarding claim 11, Gandhi discloses an apparatus for communications, comprising:

means for communicating, from a base station, with a plurality of communication devices, the communications placing a load on the base station (Figure 1 shows a base station 10 that communicates with a subscriber station 24 through its receiver, although only one subscriber station is shown it is known that a base station can communicate with a plurality of subscriber stations and each place a load in the system);

means for monitoring a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring, i.e. monitoring, system performance indicators); and

means for detecting an overload as a result of one of the parameters crossing a threshold (col.2, lines 54 – col.3, lines 1-5; col.4, lines 47 – col.5, lines 1-10; col.9, lines 30-33; the base station establishes a blocking threshold upon the measured second performance indicator that represent an overload control threshold for preventing overloading of the wireless communication systems with active subscribers stations, therefore, when the first performance indicator exceeds the blocking threshold the wireless communication system block or reject calls because the system is overloaded).

But, Gandhi fails to particularly disclose means for implementing a plurality of control mechanisms to reduce the load on the base station, wherein the control mechanism used to

reduce the load on the base station is selected based on the type and degree of the load on the base station.

However, this feature is well known in the art and Lee is evidence of the fact. Lee teaches an overload control method that includes judging whether an access network (i.e., base station) is overloaded and restricting an originating call and a termination call (i.e., control mechanisms) according to the determined class (i.e., type) during overload, in addition the overload control can be discriminately performed according to a degree of the overload so that the overload control method can effectively cope with the overload situation (see abstract; p.0033-0036). The overload control processes periodically checks whether the access network is overloaded, and when is indeed overloaded, a call (i.e., terminating call or originating call) is discriminately restricted according to a degree of overload, furthermore, the overload control process can classify, for example, 24 classes (i.e., types) of overload according to a overload degree and restrict at least one of an originating call and a termination call processed on the basis of each class (p.0051-0052; Fig. 6). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of reducing the load on the base station using a plurality of control mechanism based on the type and degree of the load on the base station, as suggested by Lee, in order to discriminately perform an overload control according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034; p.0083)

But, the combination of Gandhi and Lee fails to particularly disclose means for detecting a second type of overload as a result of one of the parameters crossing a second threshold; and

Art Unit: 2617

means for detecting an early time period, wherein the early time period occurs before the overload is detected;

However, Volftsun teaches means for detecting a second type of overload as a result of one of the parameters crossing a second threshold (abstract; col. 2, line 34 – col. 3, lines 1-7; Volftsun teaches a method and apparatus for reducing overload conditions of a node of a communication system that establishes pairs of overload thresholds values and each overload threshold correspond to the current saturation level, the pair of thresholds corresponds to an upper and a lower overload level values and correspond to saturation conditions in the node). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include means for detecting a second type of overload as a result of one of the parameters crossing a second threshold, as suggested by Volftsun, because a second threshold may correspond to an upper overload threshold value that indicates a saturation condition in the base station which is an indication of overload that is higher than the overload resulting from crossing a lower overload threshold value, i.e., first type overload.

And, Lin teaches a radio communication system with means for detecting an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before the overload is detected; and implementing a plurality of control mechanisms to reduce load during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period before overload is detected) and takes action to relieve the impending congestion by doing

Art Unit: 2617

at least one of (a) increasing output resources and (b) decreasing traffic rates (i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include means for detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59).

Regarding claim 29, the claim is rejected over the same reasons stated about claim 11 as it recites the same limitations of claim 11. See remarks about claim 11 above.

16. **Claims 32 and 34** are rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of LEE, LIN et al., and ANDERSSON (US 5,697,054).

Regarding claim 32, Gandhi discloses a base station configured to support communications with a plurality of communication devices, the communications placing a load on the base station, the base station comprising:

a processor configured to monitor a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring, i.e. monitoring, system performance indicators), and to detect an overload as a result of one of the parameters crossing a threshold (col.2, lines 54 – col.3, lines 1-5; col.4, lines 47 – col.5, lines 1-10; col.9, lines 30-33; the base station establishes a blocking threshold upon the measured second performance indicator that represent an overload control threshold for preventing

Art Unit: 2617

overloading of the wireless communication systems with active subscribers stations, therefore if the first performance indicator exceeds the blocking threshold the wireless communication system rejects new calls because the system is overloaded).

But, Gandhi fails to particularly disclose wherein the base station comprises a second processor configured to support communications with the communication devices, wherein one of the parameters is a function of loading on the second processor.

However, a base station comprising a second processor is well known in the art and Andersson is evidence of the fact. Andersson teaches a base station system comprising a plurality of processors as shown in figure 1 (i.e., RPD1, RPD2, ...) that monitors the load in each of the processors and shares the load between processors for eliminating the risk of overload in the processors (abstract; col.1, lines 35-60). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify Gandhi to include a second processor in the base station, and wherein one of the parameters monitored is a function of the loading on the second processor, as suggested by Andersson, because it is well known in the art for a base station system to comprise plural processors to share the load between them, and to monitor the load in each of the processors to maintain the system stable.

But, the combination of Gandhi and Andersson fails to particularly disclose wherein the processor is further configured to reduce the load on the base station by using a plurality of control mechanisms based on the type and degree of the load on the base station

However, this feature is well known in the art and Lee is evidence of the fact. Lee teaches an overload control method that includes judging whether an access network (i.e., base station) is overloaded and restricting an originating call and a termination call (i.e., control mechanisms)

Art Unit: 2617

according to the determined class (i.e., type) during overload, in addition the overload control can be discriminately performed according to a degree of the overload so that the overload control method can effectively cope with the overload situation (see abstract; p.0033-0036). The overload control processes periodically checks whether the access network is overloaded, and when is indeed overloaded, a call (i.e., terminating call or originating call) is discriminately restricted according to a degree of overload, furthermore, the overload control process can classify, for example, 24 classes (i.e., types) of overload according to a overload degree and restrict at least one of an originating call and a termination call processed on the basis of each class (p.0051-0052; Fig. 6). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi the combination of Gandhi and Lee and to include the features of using a plurality of control mechanisms based on the type and degree of the load on the base station to reduce the load at the base station, as suggested by Lee, in order to discriminately perform an overload control according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034; p.0083).

But, the combination of Gandhi, Andersson, and Lee does not particularly disclose wherein the processor is further configured to detect an early time period, wherein the early time period occurs before the overload is detected, and wherein the plurality of control mechanisms are also implemented during the early time period.

However, Lin teaches a radio communication system configured to detect an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before the overload is detected; and implementing a plurality of control mechanisms to reduce load

Art Unit: 2617

during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period before overload is detected) and takes action to relieve the impending congestion by doing at least one of (a) increasing output resources and (b) decreasing traffic rates (i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include the features of detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59).

Regarding claim 34, Gandhi discloses a base station configured to support communications with a plurality of communication devices, the communications placing a load on the base station, the base station comprising:

a processor configured to monitor a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring, i.e. monitoring, system performance indicators), and to detect an overload as a result of one of the parameters crossing a threshold (col.2, lines 54 – col.3, lines 1-5; col.4, lines 47 – col.5, lines 1-10; col.9, lines 30-33; the base station establishes a blocking threshold upon the measured second performance indicator that represent an overload control threshold for preventing

Art Unit: 2617

overloading of the wireless communication systems with active subscribers stations, therefore if the first performance indicator exceeds the blocking threshold the wireless communication system rejects new calls because the system is overloaded);

a receiver (Fig. 1; receiver 14); and a transmitter (Fig. 1; transmitter 12), wherein one of the parameters is a function of receiver stability, or transmission power requirements (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29, 36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link).

But, Gandhi fails to particularly disclose wherein the base station comprises a second processor configured to support communications with the communication devices.

However, Andersson teaches a base station system comprising a plurality of processors as shown in figure 1 (i.e., RPD1, RPD2, ...) that monitors the load in each of the processors and shares the load between processors for eliminating the risk of overload in the processors (abstract; col.1, lines 35-60). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify Gandhi to include a second processor in the base station, as suggested by Andersson, because it is well known in the art for a base station system to comprise plural processors for sharing the load of mobile devices between them and maintain the system stable.

But, the combination of Gandhi and Andersson fails to particularly disclose wherein the processor is configured to reduce the load on the base station using a plurality of control mechanisms based on the type and degree of the load on the base station.; and wherein the

Art Unit: 2617

processor is further configured to detect an early time period, wherein the early time period occurs before the overload is detected, and wherein the plurality of control mechanisms are also implemented during the early time period.

However, Lee teaches an access network (i.e., base station) configured to reduce the load on the base station using a plurality of control mechanisms based on the type and degree of the load on the base station (abstract; p.0033-0036; Fig. 6; p.0051-0052; additionally, see rejections about claim 1 regarding Lee). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the feature of reducing the load on the base station using a plurality of control mechanism based on the type and degree of the load on the base station, as suggested by Lee, in order to discriminately perform an overload control according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034; p.0083).

And, Lin teaches a communication system configured to detect an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before the overload is detected, and implements a plurality of control mechanisms during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period before overload is detected) and takes action to relieve the impending congestion by doing at least one of (a) increasing output resources and (b) decreasing traffic rates (i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art

Art Unit: 2617

at the time of the invention, to modify the combination of Gandhi and Lee to include the features of detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59)).

17. **Claim 37** is rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of ANDERSSON, LEE, LIN et al., LAAKSO, JANG et al., CHENG et al., and NAGARAJAN et al.

Regarding claim 37, Gandhi discloses a base station configured to support communications with a plurality of communication devices, the communications placing a load on the base station, the base station comprising:

a processor configured to monitor a plurality of parameters each relating to the load on the base station (col.2, lines 26-32; the base station includes a pair of measurers for measuring, i.e. monitoring, system performance indicators), and to detect an overload as a result of one of the parameters crossing a threshold (col.2, lines 54 – col.3, lines 1-5; col.4, lines 47 – col.5, lines 1-10; col.9, lines 30-33; the base station establishes a blocking threshold upon the measured second performance indicator that represent an overload control threshold for preventing overloading of the wireless communication systems with active subscribers stations, therefore if the first performance indicator exceeds the blocking threshold the wireless communication system rejects new calls because the system is overloaded);

Art Unit: 2617

a receiver (Fig. 1; receiver 14); and a transmitter (Fig. 1; transmitter 12), wherein one of the parameters is a function of receiver stability (col.2, line 54 – col.3, lines 1-5; col.4, lines 58-62; col.3, lines 23-29, 36-42; col.4, lines 4-7; the base station measures a first performance indicator, i.e. parameter, which is the interference rise over the background noise that is a measure of signal quality or reliability over a defined coverage area for the reverse link).

But, Gandhi fails to particularly disclose wherein the base station comprises a second processor configured to support communications with the communication devices, and a third one of the parameters is a function of loading on the second processor.

However, Andersson teaches a base station system comprising a plurality of processors as shown in figure 1 (i.e., RPD1, RPD2, ...) that monitors the load in each of the processors and shares the load between processors for eliminating the risk of overload in the processors (abstract; col.1, lines 35-60). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify Gandhi to include a second processor in the base station, and wherein one of the parameters monitored is a function of the loading on the second processor, as suggested by Andersson, because it is well known in the art for a base station system to comprise plural processors to share the load between them, and to monitor the load in each of the processors to maintain the system stable.

But, the combination of Gandhi and Andersson does not particularly disclose wherein the processor is configured to reduce the load on the base station using a plurality of control mechanisms based on the type and degree of the load on the base station; and wherein the processor is configured to detect an early time period, wherein the early time period occurs

Art Unit: 2617

before the overload is detected, and wherein the plurality of control mechanisms are also implemented during the early time period.

However, Lee teaches a communication system configured to reduce the load on the base station using a plurality of control mechanisms based on the type and degree of the load on the base station (see abstract; p.0033-0036; Fig. 6; p.0051-0052; additionally see rejections of claim 1 regarding Lee). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify Gandhi to include the features of reducing the load on the base station using a plurality of control mechanism based on the type and degree of the load on the base station, as suggested by Lee, in order to discriminately perform an overload control according to a degree and class of the overload so that the overload control method can effectively cope with the overload situation, and in addition to effectively manage the resources at the base station (abstract; p.0033-0034; p.0083).

And, Lin teaches a communication system that is configured to detect an early time period (i.e., early warning of impending congestion), wherein the early time period occurs before the overload is detected, and implementing a plurality of control mechanisms during the early time period (Abstract; col. 1, lines 39-56; col. 3, lines 55-66; col. 4, lines 42-59; col. 5, lines 1-45; Lin teaches a radio communication system comprising a processing system (Fig. 2) that is programmed to detect an early warning of impending congestion (i.e., early time period before overload is detected) and takes action to relieve the impending congestion by doing at least one of (a) increasing output resources and (b) decreasing traffic rates (i.e., plurality of control mechanisms)). *Therefore*, it would have been obvious to a person having ordinary skill in the art at the time of the invention, to modify the combination of Gandhi and Lee to include the features

Art Unit: 2617

of detecting an early time period, wherein the early time period occurs before the overload is detected (i.e., early warning of impending congestion) and implementing a plurality of control mechanisms to reduce the load during the early time period, as suggested by Lin, since such a modification would provide the advantage of attacking potential congestion (i.e., overload) in a communication system as early as possible so that the system does not become unstable very often (col. 4, lines 42-59)).

Nevertheless, the combination of Gandhi, Andersson, Lee, and Lin fails to particularly disclose wherein the second one of the parameters monitored is a function of transmission power requirements for the transmitter.

However, Laakso teaches a method for traffic load control in a telecommunication network comprising the steps of setting a first reference load value for the load of a respective cell (abstract, lines 1-11); the method measures the parameter PrxTotal which is the total received power in the uplink measured on cell basis (Page 3, Table), and establishes an overload condition if the PrxTotal exceeds the overload threshold PrxThreshold (p.0071; p.0074). *Therefore*, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of monitoring the transmission power requirements for a base station transmitter, as suggested by Laakso, because is a parameter well known to be used to estimate and control the state of congestion of a communication system due to wireless communication devices.

18. **Claim 38** is rejected under 35 U.S.C. 103(a) as being unpatentable over GANDHI et al. in views of ANDERSSON, LAAKSO, LEE, LIN et al., and PADOVANI.

Art Unit: 2617

Regarding claim 38, the combination of Gandhi, Andersson, Lee, Lin, and Laakso disclose the base station of claim 37, but the combination fails to particularly disclose monitoring a fourth parameter comprising a function of the number of communication devices in communication with the base station.

However, Padovani teaches that a simple means for determining reverse link loading is to simply count the number of active users in the base station (col.4, lines 32-34). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention, to modify the combination to include the features of monitoring a fourth parameter comprising a number of the communication devices in communication with the base station, as suggested by Padovani, because is conventional and well known in the art method for determining a reverse link loading and simple to implement.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136 (a) will be calculated from the mailing date of the advisory action. In no event, however,


Art Unit: 2617

will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marisol Figueroa whose telephone number is (571) 272-7840. The examiner can normally be reached on Monday Thru Friday 8:30 a.m. - 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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Art Unit 2617


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